

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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TIM CARSON & GABRIELLE GILLOTA,

Plaintiffs,

vs.

STATE FARM FIRE AND CASUALTY,  
COMPANY, ET AL.

Defendants.

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CASE NO. 18-CV-373

OPINION & ORDER  
[Resolving Docs. [12](#), [14](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Defendants State Farm and American Structurepoint, Inc. (“ASI”) have moved to dismiss several counts of Plaintiffs’ complaint for failure to state a claim.<sup>1</sup> Plaintiffs, in addition to filing oppositions to these motions, filed a second amended complaint that attempts to resolve the pleading deficiencies raised by Defendants.<sup>2</sup> Plaintiffs filed their amended complaint prior to the Court’s amendment deadline, and Defendants have not opposed this amendment.

Because Plaintiffs have filed a second amended complaint, Defendants’ motions to dismiss Plaintiffs’ first amended complaint are now moot.<sup>3</sup> The Court therefore **ACCEPTS** Plaintiffs’ second amended complaint and **DENIES AS MOOT** Defendant State Farm’s and Defendant ASI’s motions to dismiss.

IT IS SO ORDERED

Dated: May 4, 2018

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> See Doc. [12](#) (ASI motion to dismiss unjust enrichment claim); Doc. [14](#) (State Farm motion to dismiss constructive fraud and negligent misrepresentation claims). Plaintiff opposes each of these motions. Docs. [24](#), [25](#).

<sup>2</sup> See Doc. [23](#) (second amended complaint).

<sup>3</sup> See, e.g., [Glass v. The Kellogg Co.](#), 252 F.R.D. 367, 368 & n.3 (W.D. Mich. 2008) (collecting cases).